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TAGS: [PGOV](#) [PREL](#) [KBTS](#) [RU](#) [GG](#)
SUBJECT: GEORGIA: LAW ON OCCUPIED TERRITORIES SEEKS TO
SAFEGUARD TERRITORIAL INTEGRITY

Classified By: Charge d'Affaires a.i. Kent Logsdon for Reasons 1.4 (b) and (d).

11. (C) Summary and comment. The "Law of Georgia on the Occupied Territories" was formally published with President Saakashvili's signature October 30. Georgian parliamentarians and staff described the law as a response to Russian aggression and an effort to prevent degradation of Georgian territorial integrity. Key elements include restrictions on economic activity in the regions and limitations on movements by foreigners. The law also renews the state of emergency in the territories. Although the law sets basic parameters for the legality of activities in the regions, the government must establish detailed procedures to implement the law within a month. The diplomatic corps has concerns about limitations on its own movements, which could contravene the Vienna Convention and be construed as an implicit acknowledgment of some loss of Georgia's sovereignty, and limitations on the movements of international organizations, which could render important assistance difficult. Although the intentions of the law are understandable, the Parliament may not have given the government sufficient time to implement this legislation in a thoughtful way. End summary and comment.

THE LAW ITSELF

12. (SBU) In an October 21 briefing for the diplomatic corps, Deputy Chairman of the Georgian Parliament's Legal Issues Committee Akaki Minashvili and Committee member Tsiora Taktakishvili, who helped draft the "Law of Georgia on the Occupied Territories," offered an overview of the law itself and answered questions. Article 1, entitled "The Purpose of the Law," contains one sentence: "The purpose of the present Law is to define the status of those territories that are occupied as a result of the military aggression of the Russian Federation, and to establish a special legal regime on these territories." The following articles then define the occupied territories and maritime zones (Article 2); restrict the movements of foreigners to one entry and exit point for each territory -- Zugdidi for Abkhazia and Gori for South Ossetia (Art. 4); nullify property transactions in the territories (Art. 5); prohibit economic activity in the territories that is regulated in some way by the de facto authorities (Art. 6); assign the Russian Federation responsibility for the protection of human rights and cultural heritage in the territories while they are outside Georgia's effective control (Art. 7); declare de facto governments and legislatures and their acts illegal (Art. 8); and oblige the government to take steps to protect Georgia's interests in the territories, in particular by signing bilateral treaties that establish sanctions for those that violate the law (Art. 9). A copy of the draft has been emailed to EUR/CARC.

13. (SBU) Minashvili and Taktakishvili explained that the law

provides a basic framework for a legal regime in the territories, but the government would have to prepare a decree within one month of the law's October 30 publication that sets out detailed procedures for implementing the legislation. In Articles 4 and 6, for example, the law gives the government the authority to make special provisions for movements and economic activity in the territories, provided they serve Georgia's national interest, and the government will have to lay out the criteria for such provisions and the process by which such decisions are made. Minashvili suggested that authorizing the government to establish those criteria and processes, rather than including them in the law itself, would provide for more flexibility. It would be easier for the government to issue a new decree than for the Parliament to pass a new law.

14. (SBU) Based on earlier discussions with various parties, including diplomats, Minashvili and Taktakishvili explained that the text had been amended to take certain concerns into account. The special provision for allowing more flexible movement, for example, now has a passage that makes explicit the importance of enabling the work of international organizations on "peaceful conflict resolution, deoccupation or humanitarian purposes." Restrictions on economic activities in the territories can likewise be lifted "if they serve the national interests of Georgia and the purpose of peaceful conflict resolution, deoccupation, or humanitarian purposes."

15. (SBU) Article 3 declares that a state of emergency will remain in effect in the occupied territories. Minashvili explained that this includes any areas that Russian forces

TBILISI 00002071 002 OF 003

still occupy, including those in undisputed Georgian territory, such as the Russian checkpoint in Perevi.

DIPLOMATIC COMMUNITY CONCERNS ABOUT FREEDOM OF MOVEMENT . . .

16. (SBU) The focus of the October 21 discussion was Articles 4, 5 and 6, especially the issue of foreigners' freedom of movement. French Ambassador Eric Fournier noted that the Vienna Convention prohibits restrictions on diplomats' movements and expressed concern about the ability of international organizations to conduct their work. He furthermore suggested that this provision of the law might even be counterproductive, because prohibiting diplomats from going wherever they want to go within Georgia -- a right guaranteed them by the Vienna Convention -- could reinforce the reality of the administrative boundaries and thereby degrade Georgia's territorial integrity.

17. (SBU) Council of Europe Special Representative Igor Gaon focused on the practical difficulties that restrictions on movements would pose. He raised the case of a recent Council of Europe mission that the Georgian government had invited to survey damage to cultural sites (primarily churches) in South Ossetia. The Georgian government insisted that the mission seek entry to South Ossetia from Gori (as the law now formally requires), but the mission could not gain entry. Gaon suggested that the Georgian government knew all along that the mission would not be allowed in, but asked that they come anyway. He said that not only was this approach unfair to the international organizations, but it was impractical, because it would prevent the Georgian government from addressing real concerns (such as the current state of cultural sites). If the government had authorized the mission to enter from the north, through North Ossetia, then they could have done what the government had asked them to do.

18. (SBU) Regarding diplomatic movements, Minashvili said that Article 26 of the Vienna Convention does allow countries to restrict movement into zones "for reasons of national security," and Georgia therefore has the right to establish certain restrictions. The government fully supports

diplomats' travel into the territories, but only in accordance with procedures established by Tbilisi, including via the two established entry points.

¶9. (SBU) Regarding the movement of international organizations, Minashvili emphasized that the government would have the authority to make special provisions, such as for assistance providers. He suggested that the government would probably authorize entry from the north, for example, if necessary. In response to a question from a British representative, Minashvili explained that the government did not want to obstruct the activities of international organizations that conduct confidence-building activities, but that the government also wanted to be sure that any special arrangements assisted only "impartial" organizations. He noted, for example, that the government would want to avoid assisting organizations supported by Russia that would not be constructive. Minashveili emphasized that the government had to have the authority to prevent "illegitimate" organizations from operating in the territories. Fournier suggested that some non-governmental organizations might be sensitive about restrictions being placed on their movements. Minashvili repeated that Georgia placed no restrictions on their movements. Minashvili repeated that Georgia did not object to legitimate organizations moving throughout the country, but had the right to regulate movements for the sake of both territorial integrity and the interests of its citizens.

¶10. (SBU) In response to a question about enforcement, Minashvili explained that violations of the law would indeed be punishable under Georgian law. Although the government might not have agents at northern border crossings to observe movements, it would have other means -- such as inspection of stamps entered into passports -- to determine points of entry. In any case, however, a legitimate organization would have the opportunity to seek permission from the Georgian government to enter from the north and thereby avoid a violation.

. . . ABOUT ECONOMIC ACTIVITIES . . .

¶11. (SBU) In response to a question from Estonian Ambassador Toomas Lukk about property rights in the territories, Minashvili explained that the law forbids property transactions in order to protect legitimate property holders, in particular among Internally Displaced Persons (IDPs). He explained that the Ministry of Justice is currently compiling

TBILISI 00002071 003 OF 003

a registry of information about real estate in the territories, to which anyone with documentation about holdings in the territories can contribute. Once the political status of the territories is resolved, the registry will be used to resolve questions of ownership and restitution; in the meantime, the law is designed to outlaw unauthorized transactions.

¶12. (SBU) Regarding small business activities, in particular between entities on both sides of the administrative boundaries, Minashvili explained that small transactions that do not require any government regulation would not be affected by the legislation. Any transaction that does require regulation would be subject to the law, however. He suggested that this would be one of the first areas that the government would likely address in its implementing decree.

. . . AND ABOUT GEOGRAPHIC DEFINITIONS.

¶13. (SBU) Lithuanian Counselor Viktoras Dagilis asked about the codification of geographic boundaries within the law (Article 2). He raised current diplomatic efforts to persuade Russian forces to depart the Akhalkori region, which, if successful, would return Akhalkori to Georgian control. According to the law, Akhalkori -- as part of the former Autonomous Oblast of South Ossetia -- would still be

subject to the legislation's provisions and restrictions. Would the Parliament want to repeal the provisions in regard to Akhagori if it reverted to Georgian control, and would including those geographic definitions in the law itself provide sufficient flexibility to do so? Minashvili did not offer a substantive answer. After the meeting, Dagilis noted to PolOff that, in Soviet practice, the boundaries of autonomous oblasts were not as systematically defined as those of autonomous republics, so that it might be difficult to establish an authoritative demarcation of the border. It might therefore be advisable not to encode such an imprecise definition in the law. He added that this same imprecision was at the root of the dispute over the remaining Russian checkpoint at Perevi.

¶14. (SBU) After the meeting, PolOff raised a question about the draft's definition of Abkhazia's maritime area as extending all the way south to the Enguri River. Some territory north of the Enguri River lies outside the Abkhaz administrative boundary (such as the village of Ganmukhuri), and making the maritime area there subject to this law could lend support to Abkhaz interest in claiming all the territory south to the Enguri. Minashvili expressed his appreciation for the comment, but the final version of the law retained the language.

COMMENT: HASTE MAKES WASTE

¶15. (C) PolOff also asked whether one month would be sufficient to draft the necessary decree to implement the law; Minashvili thought it would. When asked which agencies would take the lead in formulating the details of the policy, however, Minashvili did not offer a direct answer, but said the prime minister would coordinate a government-wide approach, with contributions from various agencies. Parliament seems to be placing significant responsibility on the government to formulate a complex set of criteria and procedures in a very short time. Deputy Minister of Reintegration Dimitri Manjavidze told PolOff on November 5 that the government did not yet have a basic plan for implementation, and in fact had not even identified which agency would take the lead in either drafting the decree or putting it into practice. He added that Minister of the Interior Merabishvili would likely end up playing a key role in implementation. Although codifying in law an approach to activities in the territories makes sense, the government may not have been given enough time to implement the law in a thoughtful way.

LOGSDON